IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4444 of 1997
With
SPECIAL CIVIL APPLICATION No. 8609 of 1997
With
SPECIAL CIVIL APPLICATION No. 8532 of 1997
With
SPECIAL CIVIL APPLICATION No. 9040 of 1997
With
SPECIAL CIVIL APPLICATION No. 9411 of 1997
With
SPECIAL CIVIL APPLICATION No. 9412 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL PARIMAL KODARBHAI & 2 - Petitioner(s)
Versus
DISTRICT PRIMARY EDUCATION OFFICER & 13 - Respondent(s)

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Appearance :

MR KB PUJARA for Petitioner(s) : 1 - 32.
Shri Dipen Desai, AsstGOVERNMENT PLEADER for Respondent(s) : 1,13 – 14 in SCAs. No. 4444, 8532, 8609 and 9412 of 1997 -

Shri Vipul Mistry, AGP for the State in SCAs No. 9040 of 1997 and 9411 of 1997.
DS AFF.NOT FILED (N) for Respondent(s) : 3 - 12.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/04/2007

ORAL JUDGMENT

Shri KB Pujara, learned advocate has submitted that one petition, being Special Civil Application No. 9411 of 1997 governing the same subject matter of the above group is not placed on Board and therefore he has requested to call for the papers of the said Special Civil Application and to dispose of the same along with the present group of petitions. Hence with the consent of the learned advocates appearing for the parties, SCA No. 9411 of 1997 are called from the office and the same is being disposed of along with abovesaid group of petitions.

2. In all these petitions filed under Article 226 of the Constitution of India, the respective petitioners were claiming right of appointment as 'Primary Teacher' on the basis of interviews held in August 1992 pursuant to advertisement issued on 2nd January 1992. It is the case on behalf of the respective petitioners

that before any select list could be prepared some other primary teachers who had been selected in the year 1989 and were not offered appointments approached this Court by way of Special Civil Application No. 5073 of 1992 and several other petitions, and by an interim order made on the said petition the respondent No.1 was restrained from preparing and/or finalising the select list of Primary Teachers and from making any appointment on the post from the new select list. It is submitted that the said petitions were disposed of on 23rd April 1997 and before the select list could be finalised and/or operated, on 30th April 1997 the Government issued the Resolution under which the Government decided to fill in the posts of Primary School Teachers by appointment of Balgurus on consolidated pay instead of appointing the persons duly selected in accordance with the recruitment Rules and therefore the petitioners were not appointed as Primary Teachers. The petitioners have thus preferred the present Special Civil Applications.

3. By order dated 25.11.1997, the learned Single Judge, while admitting the present Special Civil Applications, granted interim order directing the respondents to finalise the select list pursuant to advertisement issued on 2nd January 1997 and interviews held in the month of July and August 1992 on certain conditions. It is reported that against the interim order passed by this Court dated 25th November 1997 in the present petition, Letters Patent Appeal No. 1514 of 1997 was preferred before the Division Bench of this Court. However, in the meantime the Government came out with a Resolution dated 31.8.1998 by which all the persons in the select list from the year 1989 to 1996 were offered appointments as 'Vidhya Sahayaks' and considering the above Government Resolution the Division Bench disposed of the aforesaid Letters Patent Appeal No. 1514 of 1997 filed in Special Civil Application by observing that in view of the above Government Resolution the said Appeal does not survive, however without observing anything

on merits. It appears that the petitioners were satisfied with the Government Resolution dated 31st August 1998 and they also accepted the appointments as 'Vidhya Sahayaks'.

4. Shri Dipen Desai, learned AGP under instruction from one Rameshbhai Patel, Senior Clerk of District Panchayat, Kheda, has submitted that the select list is already operated and exhausted and all the persons who were in the select list inclusive of petitioners are already appointed as 'Vidhya Sahayaks'. In view of the above, and more particularly when the petitioners have accepted the Government Resolution dated 31st August 1998 and when subsequently the petitioners are appointed as 'Vidhya Sahayaks' pursuant to the said Government Resolution, no further order requires to be passed in the present Special Civil Applications. Under the circumstances, all these petitions are disposed of. Rule is discharged. No costs.

[M.R. Shah, J.]

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